

On March 20, 2023, the Court entered its Order related to Plaintiffs' Motion to Compel. The parties continue to meet and confer regarding production logistics concerning the Gardasil and Gardasil 9 adverse event report information from the Merck Adverse Event Reporting and Review System ("MARRS").

In May 2023, Merck produced in eCTD format the portions of the Gardasil and Gardasil 9 regulatory files that already exist in eCTD format, except for Module 3, which contains the CMC sections that the Court ordered need not be produced. Plaintiffs are reviewing Merck's eCTD production.

The parties are continuing to meet and confer regarding the remaining categories as indicated in the Court's Order.

B. Merck Depositions

The parties have scheduled Rule 30(b)(6) depositions related to Merck's pharmacovigilance processes and Gardasil clinical trials to occur on the following dates: September 12, 13, 15, 21, and 22, and November 9. A Rule 30(b)(1) deposition of a Merck witness has been scheduled for October 27. Plaintiffs also requested the depositions of certain former Merck employees and an additional current Merck employee, and the parties are conferring about those witnesses' depositions. These depositions have all been crossed-noticed in the individual California state court matters. The parties continue to meet and confer about a deposition protocol.

C. Bellwether Case Updates

Sydney Fetters, a plaintiff in one of the bellwether cases selected by Merck, filed a joint stipulation with Merck's consent dismissing her case with prejudice on August 17, 2023. (D.E. 105). Pursuant to Case Management Order No. 1, Merck will select a replacement case within fourteen days after the Court dismisses the Fetters case.

Merck has issued subpoenas *duces tecum* to multiple bellwether plaintiffs' parents. Merck intends to serve subpoenas to Plaintiffs' parents in every bellwether case. The parties are meeting and conferring about acceptance of the subpoenas and scheduling of the bellwether plaintiffs' and their parents' depositions.

D. Privilege Log

The parties met and conferred about Merck's privilege log on July 27 regarding overarching issues identified from the review of a select number of entries on the privilege log. Merck produced or removed redactions from some of the documents identified by Plaintiffs in their correspondence. Merck expects to send Plaintiffs a supplemental response and production by August 21, 2023. The parties will continue to meet and confer as needed.

E. Plaintiffs' Fact Sheets Productions

Plaintiffs have produced Plaintiff Fact Sheets Part I, II, III, and IV, additional authorizations, and responsive documents in several cases. The parties will continue to meet and confer about ESI production of materials Plaintiffs produced as part of PFS productions. Merck is reviewing the received PFSs and productions for deficiencies and will be meeting and conferring with Plaintiffs regarding observed deficiencies, if any. Plaintiffs continue to supplement and produce PFSs and documents on an ongoing basis as complaints are filed.

F. Plaintiffs' Records Collection Pursuant to the PFS Order

On August 4, Plaintiffs asked that LMI (the agreed records collection vendor in the PFS Order) temporarily cease all records collections in the MDL related to the circumstances surrounding LMI's handling of an employment records request in a non-bellwether plaintiff's case. Prior to that time, LMI collected records from Plaintiffs' healthcare providers, employers, insurers, schools, and other records custodians using the signed authorizations provided by Plaintiffs under the PFS Order. Merck and LMI have provided additional information to

Plaintiffs relating to the incident in question. Plaintiffs have posed additional questions in that regard. The parties are continuing to meet and confer and will hopefully reach an agreement to resume records collection. If that does not occur by the time of the conference, however, the parties will need to raise the issue with the Court.

G. Defendant Fact Sheets

Merck has served several DFSs pursuant to the DFS Order and is continuing to serve and supplement DFSs. Plaintiffs are reviewing the received DFSs for deficiencies and will be meeting and conferring with Merck regarding observed deficiencies, if any.

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